

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 468 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE H.R.SHELAT

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

NARODA NAGRIK SAHAKARI BANK LTD

Versus

CLERK OF THE COURT-MIRZAPUR

Appearance:

MR GM JOSHI for Petitioner
RULE SERVED FOR Respondent No. 1.
MRS SIDDHI D TALATI for Respondent No. 2 (Not
present)
Mr. Sudhansu S. Patel, AGP for Respondent No. 5

CORAM : MR.JUSTICE H.R.SHELAT

Date of decision: 12/10/2000

ORAL JUDGEMENT

The petitioner prays for issuance of a writ of mandamus or any other appropriate writ directing the respondents No. 2 to 5 to issue a certificate permitting it to file an execution application so as to execute the award passed by the Board of Nominees and realise the amounts etc.

2. It is the case of the petitioner that against Ramabhai Becharbhai Prajapati and others the amounts were due in connection with the dealings they were having. To recover the dues Arbitration Suit No. 2886 of 1976 was filed in the Board of Nominees at Ahmedabad. The suit was decreed on 14th February 1977. Thereafter, Execution Petition No. 93/84 was filed in the Court of the Civil Judge (SD) at Narol. During the pendency thereof one of the judgment debtors expired but the heirs could not be brought on record. The petition was being adjourned from time to time and on 13th September 1985 the then learned Civil Judge (SD) at Narol dismissed the Execution Petition as process fees were not paid. Thereafter, the Civil Court sent the paper back to the District Registrar, Co-operative Societies, Ahmedabad on 16th June 1986. The petitioner then on 22nd Nov. 1988 filed the application in the Court of Civil Judge (SD), Ahmedabad (Rural) at Narol with a prayer to hand over back the copy of the award and other papers. He was replied that papers were already sent back to the District Registrar, Co-operative Societies, Ahmedabad. On 28th November 1988 the petitioner then applied for the certificate and copy of the award so as to file the Execution Petition again. The copy of that application given to Dist. Registrar, Co-op. Societies, is produced at Page 13. On 29th August 1988 also likewise application was filed, the copy of which is produced at Page 15. On 12th December, again the Dist. Registrar, Co-op Societies, Ahmedabad, was moved filing the application for having necessary certificate and copy of the award for further action qua execution. The copy of that application is produced at Page 19. The Dist. Registrar, Co-op Societies, Ahmedabad, despite these three applications took no action and he neither issued the certificate nor gave the copy of the award. The applications are kept in abeyance without passing any order. The petitioner is therefore constrained to file this application for the aforesaid relief.

3. Hearing the learned advocate for the petitioner and Mr. Sudhansu Patel, the learned A.G.P. for respondents No. 4 & 5, it becomes clear that necessary direction to the District Registrar-respondent No.5 is required to be issued so that he can pass appropriate order qua the aforesaid applications filed by the petitioner, and petitioner may have the copy of the award and the certificate for filing Execution Petition. In view of the fact, the respondent No.5 is hereby directed to dispose of the applications of the petitioner dated 28th November 1988, 29th August 1988 and 12th December

1987 within a month from the receipt of the writ and inform the petitioner about the order he has passed. In case it is not possible for him to provide the copy of the decree and issue the certificate prayed for, order that may be passed in that regard be communicated to the petitioner. With this direction, the application is disposed of. Rule discharged. If ne

the petitioner

will be free to file a fresh application on the ground available in law. Rule to such extent made absolute.

rnr.